

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ELMER AUGUSTO MARTINEZ,)	
an individual,)	
)	Case No. 1:22-cv-668
Plaintiff,)	
)	
v.)	
)	
RAVINIA BREWING COMPANY, LLC, an)	
Illinois limited liability company, and)	
KRIS WALKER, an individual,)	
)	
Defendants.)	

COMPLAINT

The Plaintiff, Elmer Augusto Martinez, by and through his attorney, Timothy M. Nolan of the Nolan Law Office, complains against Defendants, Ravinia Brewing Company, LLC, an Illinois limited liability company, and Kris Walker (collectively the “Defendants”), as follows:

NATURE OF THE SUIT

1. This lawsuit arises under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, and the Illinois Minimum Wage Law (“IMWL”), 820 ILCS § 105/1, *et seq.*, for Defendants’ failure to pay Plaintiff overtime compensation for hours worked over forty (40) in a workweek, while compensating Plaintiff on an unlawful salary basis. Plaintiff is a former kitchen worker at Defendants’ Ravinia Brewing Company restaurant.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff’s FLSA claim pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331. This Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), because the facts and events giving rise to Plaintiff's claims occurred in this judicial district.

THE PARTIES

4. Plaintiff Elmer August Martinez ("Plaintiff" or "Martinez") is a former employee of Defendants' Ravinia Brewing Company restaurant located at 582 Roger Williams Avenue in Highland Park, Illinois. Plaintiff Martinez worked as a cleaner, dishwasher, food preparer and cook at Defendants' restaurant from October, 2017 through January 29, 2022.

5. During the course of his employment, Plaintiff regularly used and handled goods and materials, including perishable food and food products, and tools, utensils and cleaning products, which moved in interstate commerce prior to being used or purchased in Illinois.

6. Plaintiff resides in and is domiciled in this judicial district.

7. Defendant Ravinia Brewing Company, LLC ("Ravinia Brewing") does business as the Ravinia Brewing Co. and operates a restaurant and brewing facility on Roger Williams Avenue in Highland Park, Illinois and is engaged in selling and serving prepared food and beverages, including alcoholic beverages, to customers for consumption on and off its premises.

8. Defendant Ravinia Brewing has earned more than \$500,000.00 in annual gross revenue during 2019, 2020, 2021 and 2022.

9. Defendant Ravinia Brewing is registered in Illinois as a limited liability company and its managers, registered agent and principal office are located within this judicial district.

10. Defendant Kris Walker ("Walker") is an owner of Ravinia Brewing and is a manager of the restaurants' operating entity.

11. At all times relevant to this action, Defendant Walker possessed extensive oversight over the Ravinia Brewing restaurant and business operations. Defendant Walker was

the ultimate decision-maker with respect to Defendants' payroll and wage and hour practices; he possessed the authority to hire and fire Defendants' employees; supervised and controlled employee work schedules or conditions of employment; determined rate and method of payment; and maintained employment records.

12. Defendant Walker resides in and is domiciled within this District.

COMMON ALLEGATIONS

13. During the period from February, 2019 through January 29, 2022, Plaintiff regularly worked at Defendants' Ravinia Brewing restaurant six (6) days per week including Tuesday through Thursday from 10:00 a.m. to at least 9:00 p.m.; Friday and Saturday from 10:00 a.m. to at least 11:00 p.m.; and, Sunday from 9:00 a.m. to at least 4:00 p.m. During this period, Plaintiff typically did not work on Monday.

14. Based on his schedule, Plaintiff regularly worked at least sixty-six (66) hours in individual workweeks from February, 2019 through January 29, 2022.

15. During the period from February, 2019 through April 19, 2021, Defendants paid Plaintiff a biweekly salary in the amount of \$2,000.00. Thereafter, Defendants paid Plaintiff a biweekly salary in the amount of \$2,300.00.

16. Defendants did not compensate Plaintiff at one and one-half times his regular hourly rate of pay for hours worked in excess of forty (40) in individual workweeks.

17. Defendants never paid Plaintiff an overtime premium when he worked more than 40 hours in a workweek.

18. In violation of the statutes and implementing regulations of the FLSA and IMWL, 29 C.F.R. § 516, 820 ILCS § 105/8, and Ill. Adm. Code 210.700, Defendants failed to create, maintain, and preserve complete and accurate payroll records for Plaintiff.

COUNT I
Violation of the Fair Labor Standards Act – Overtime Wages

19. Plaintiff hereby incorporates paragraphs 1 through 18 as though stated herein.

20. Throughout his employment with Defendants, Plaintiff was an “employee” of the Defendants as defined in the FLSA, 29 U.S.C. § 203(e)(1).

21. Plaintiff was not exempt from the overtime wage provisions of the FLSA, 29 U.S.C. § 207, 213.

22. Throughout Plaintiff’s employment, Defendants were each an “employer” as defined in the FLSA, 29 U.S.C. § 203(d).

23. Defendant Ravinia Brewing Company, LLC is an “enterprise” within the meaning of the FLSA, 29 U.S.C. § 203 (a)(1), and operated as an enterprise engaged in commerce within the meaning of the FLSA, U.S.C. 29 § 203(s)(1)(A).

24. Pursuant to 29 U.S.C. § 207, for all weeks during which Plaintiff worked more than forty (40) hours, Defendants were obligated to pay him at a rate of one and one-half times his regular hourly rate of pay for all hours worked over forty (40) in a workweek.

25. Defendants’ failure and refusal to pay overtime wages for hours worked in excess of 40 per week was a violation of the Fair Labor Standards Act, 29 U.S.C. § 207.

26. Defendants’ violation of the Fair Labor Standards Act by refusing to pay Plaintiff’s overtime wages was willful and not in good faith. Defendants at all times failed to pay overtime compensation even though Plaintiff was scheduled to work and regularly did work more than forty (40) hours in individual workweeks. Defendants further avoided overtime wage obligations by placing Plaintiff on an illegal salary compensation plan without regard to the number of hours worked each week. Defendants further concealed their FLSA violations by issuing Plaintiff payroll statements which falsely referred to Plaintiff’s wage payments as “tips”

and “transportation stipend”. Additionally, Defendants failed to record the number of hours worked by Plaintiff, they failed to provide Plaintiff with a statement of hours worked, and they otherwise violated the Act’s recordkeeping regulations.

WHEREFORE, the Plaintiff, Elmer Augusto Martinez, prays for a judgment against Defendants, Ravinia Brewing Company, LLC and Kris Walker, as follows:

- A. Judgment in the amount of unpaid overtime compensation found due at the rate of one and one-half times Plaintiff’s regular hourly rate of pay for all hours which Plaintiff worked in excess of forty (40) hours per week;
- B. Liquidated damages in an amount equal to the amount of unpaid overtime compensation found due;
- C. Reasonable attorneys’ fees and costs incurred in filing and prosecuting this action; and,
- D. Such other and further relief as this Court deems appropriate and just.

COUNT II
Violation of the Illinois Minimum Wage Law – Overtime Wages

- 27. Plaintiff hereby incorporates paragraphs 1 through 18 as though stated herein.
- 28. Throughout his employment with Defendants, Plaintiff was an “employee” under the IMWL, 820 ILCS § 105/3(d).
- 29. Plaintiff was not exempt from the overtime wage provisions of the IMWL, 820 ILCS § 105/1 *et seq.*
- 30. Throughout Plaintiff’s employment, Defendants were each an “employer” as defined in the IMWL, 820 ILCS § 105/3(c).
- 31. Pursuant to 820 ILCS § 105/4(a), for all weeks during which Plaintiff worked more than forty (40) hours, he was entitled to be compensated at a rate of one and one-half times his regular hourly rate of pay.

32. Defendants' failure and refusal to pay overtime wages for hours worked in excess of 40 per week was a violation of the maximum hour provisions of the IMWL, 820 ILCS § 105/4(a).

WHEREFORE, the Plaintiff, Elmer Augusto Martinez, prays for a judgment against Defendants, Ravinia Brewing Company, LLC and Kris Walker, as follows:

- A. Judgment in the amount of unpaid overtime compensation found due at the rate of one and one-half times Plaintiff's regular hourly rate of pay for all hours which Plaintiff worked in excess of forty (40) hours per week;
- B. Statutory damages in the amount of three times the amount of unpaid overtime;
- C. Statutory interest damages in the amount of five percent (5%) per month of the amount of underpayments;
- D. Reasonable attorneys' fees and costs incurred in filling and prosecuting this action; and,
- E. Such other and further relief as this Court deems appropriate and just.

Dated: February 7, 2022

Respectfully submitted,

Elmer Augusto Martinez,
Plaintiff

/s/ Timothy M. Nolan

Attorney for the Plaintiff

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